

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-01/12-01/18**

Date: **01 March 2021**

APPEALS CHAMBER

Before: Judge Chile Eboe-Osuji, Presiding
Judge Luz del Carmen Ibáñez Carranza
Judge Howard Morrison
Judge Piotr Hofmański
Judge Solomy Balungi Bossa

SITUATION IN THE REPUBLIC OF MALI

**IN THE CASE OF
THE PROSECUTOR v. AL HASSAN AG ABDOUL AZIZ AG MOHAMED AG
MAHMOUD**

Confidential

With Confidential Annexes A and B

**Defence Request for Extension of Time to File Appeal of ‘Decision on Application for
Notice of Possibility of Variation of Legal Characterisation Pursuant to Regulation
55(2) of the Regulations of the Court’ (ICC-01/12-01/18-1211-Conf)**

Source: Defence for Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

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Counsel Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

**Victims Participation and
Reparations Section**

Other

I. Introduction

1. Pursuant to Regulation 35(2) of the Regulations of the Court, the Defence for Mr Al Hassan respectfully requests the Appeal Chamber to grant the Defence a ten (10) day extension of time to file its Appeal of Trial Chamber X's 'Decision on Application for Notice of Possibility of Variation of Legal Characterisation Pursuant to Regulation 55(2) of the Regulations of the Court'¹ (Appeal of the Regulation 55(2) Decision), currently due on 08 March 2021.

II. Confidentiality

2. Pursuant to Regulation 23*bis*(2) of the Regulations of Court, this submission has been filed confidentially as it refers to filings of the same classification.

III. Submissions

3. There is good cause to grant the Defence an extension of 10 days to file its Appeal of the Regulation 55(2) Decision. The complexity and novelty of the issues arising require careful consideration and argumentation. The Defence must conduct the necessary analyses while facing a number of competing obligations, including rigorous trial proceedings and multiple ongoing written arguments.
4. The Appeal of the Regulation 55(2) Decision necessitates thorough analysis of a number of long, detailed, complicated documents, namely: (i) Version amendée et corrigée du Document contenant les charges contre M. AL HASSAN ag ABDOUL AZIZ Ag Mohamed Ag Mahmoud (ICC-01/12-01/18-335-Conf-Corr), which totals 457 pages without annexures, and 756 with annexures;² (ii) Prosecution Request for corrections and amendments concerning the Confirmation Decision, which totals 32 pages without annexures, and 252 pages with annexures;³ (iii) Decision on the Self-Contained Set of Charges, which totals 32 pages without annexures, and 95 pages with annexures; and (iv) Decision on Application for Notice of Possibility of Variation of Legal Characterisation Pursuant to Regulation 55(2) of the Regulations of the Court, which totals 45 pages. Altogether, these documents total 1,148 pages.

¹ ICC-01/12-01/18-1211-Conf. Leave was granted on 24 February 2021 in ICC-01/12-01/18-1319-Conf.

² ICC-01/12-01/18-335-Conf-Corr.

³ ICC-01/12-01/18-568-Conf.

5. In line with the Appeals Chamber's decision in *The Prosecutor v. Katanga and Ngudjolo*: 'a cause is good, if founded upon reasons associated with a person's capacity to conform to the applicable procedural rule of regulation or the Directions of the Court. Incapability to do so must be for sound reasons, such as would objectively provide justification for the inability of a party to comply with his/her obligations.'⁴ The Defence continues to face a heavy burden of work, including complex written litigation before the Trial Chamber and a rigorous hearing schedule that necessarily demands the immediate focus of Lead Counsel and Associate Counsel as the only members of the team authorised to examine witnesses. The Defence annexes hereto at Annexes A and B schedules of the obligations with which it is currently confronted. These demonstrate the ongoing intensity of the workload facing the Defence, which objectively justifies the need for a discrete extension.
6. Further, the requested 10 day extension would not threaten to 'derail the proceedings from their ordained course.'⁵ The proposed departure from the time limits is discrete, will have no bearing on the current trial schedule, and will not prevent the conclusion of this line of litigation within a reasonable time.
7. The granting of the requested extension would not prejudice the Prosecution. The Defence submits and anticipates that any extension afforded to the Defence should also be extended to the Prosecution. Upon consultation, the Prosecution informed the Defence that it has no objection to a reasonable extension of time, on the basis that it too receives the same number of additional days to file its response.

Relief Sought

8. For the reasons set out herein, the Defence respectfully requests that the Appeals Chamber vary the deadline for filing the Defence Appeal of the Decision on Application for Notice of Possibility of Variation of Legal Characterisation Pursuant to Regulation 55(2) of the Regulations of the Court to 18 March 2021.

⁴ [ICC-01/04-01/07-653](#), para. 5.

⁵ *Ibid.*, para. 6.



Melinda Taylor
Counsel for Mr. Al Hassan

Dated this 1st Day of March 2021
At The Hague, The Netherlands